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PARTIES

2.

The plaintiff Jane Doe resides in Portland, Multnomah County, Oregon.

3.

The defendant Simon P. Green, hereafter Green, resides in Portland, Multnomah County, Oregon.

4.

The defendant American Medical Response Northwest, Inc., doing business as American Medical Response (AMR), hereafter "AMR," is a corporation whose principal place of business is in Portland, Multnomah County, Oregon.

JURISDICTION AND VENUE

5.

All of the claims giving rise to this action accrued in Portland, Multnomah County, Oregon. AMR engages in regular, sustained business in Portland, Multnomah County, Oregon. Green and the plaintiff both reside in Portland, Multnomah County, Oregon.

6.

The plaintiff's claims are based on state law. The plaintiff makes no federal claims.

JOINDER OF DEFENDANTS

7.

The plaintiff's right to relief arises out of the same occurrence and involves at least one common question of fact or law.

ALLEGATIONS OF FACT

8.

A right to medical patient privacy existed at common law at all times relevant to this complaint.

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9.

A federal rule that requires covered entities and their employees to restrict disclosure of protected health information also was in effect at all times relevant to this complaint. This rule is known as the "HIPAA Privacy Rule." (45 CFR Section 164.502).

10.

An Oregon law (hereafter, "the Oregon law") that generally exempts "information of a personal nature" – such as that kept in a medical file – from disclosure as a public record if public disclosure would constitute "an unreasonable invasion of privacy" also was in effect at all times relevant to this complaint." (ORS 192.502.)

11.

"The Oregon law" states that "it is the policy of the State of Oregon that an individual has the right to have protected health information of the individual safeguarded from unlawful use or disclosure." (ORS 192.518(1)).

12.

"The Oregon law" incorporated "the HIPAA Privacy Rule" into Oregon law. (ORS 192.518(2).)

13.

The defendant AMR and its employees were covered by "the HIPAA Privacy Rule."

14.

The defendant Green was employed by AMR at all times relevant to this complaint as an Emergency Medical Technician (EMT) paramedic.

15.

Green was acting within the scope of his agency or employment with AMR at all times relevant to this complaint.

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16.

The defendants' job duties included providing for the plaintiff's needs, safety and comfort: obtaining medical and other personal and confidential information from her for these purposes: and respecting her dignity.

17.

Under "the HIPAA Privacy Rule," protected health information includes individually identifiable information that is received by a covered entity and its employees and that relates to the past or present physical or mental health or condition of an individual and/or the provision of health care to an individual.

18.

Under "the HIPAA Privacy Rule," information need not be labeled with an individual's name to be identifiable.

19.

One of the purposes of "the HIPAA Privacy Rule" is to protect patients from emotional distress caused by unauthorized disclosure of their protected health information.

20.

On Feb. 15, 2007, the plaintiff was raped and beaten by a stranger at her apartment in Southeast Portland.

21.

AMR, which has an exclusive contract with Multnomah County to provide emergency ambulance services throughout the county, and Green were dispatched from their location in Southeast Portland to aid the plaintiff.

22.

It was reasonably foreseeable that the defendants would come into contact with the plaintiff.

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The defendants used their positions to gain the trust and confidence of the plaintiff and of the Portland Police Bureau officers who also had been dispatched to aid her.

24.

The defendants obtained protected health information and other personal and confidential information from the plaintiff as a result of the trust and confidence that she and the police officers had in the defendants.

25.

As the defendants drove the plaintiff from her residence to the hospital, Green kept telling the plaintiff how horrible the assault on her was and how he had “never seen anything like this.” As the defendants delivered the plaintiff to the hospital, Green told the plaintiff that she was at a private entrance and that “No media will see you coming in; no one will ever know that you came in.”

26.

The Portland Police Bureau, which is investigating the assault on the plaintiff, did not release the facts pertaining to the assault or the plaintiff’s protected health information or other personal and confidential information to the media prior to March 4, 2007.

27.

On or about March 4, 2007, Green posted the following information on “MySpace,” which is an internet site for online conversations: “Three weeks ago I took a lady our age to the hospital after being raped at knife point, by a caucasian [sic] male of average build. The eerie thing here is that we took a female cop with us to the hospital and the victim could only keep stating on [sic] how green her assailant’s eyes were when asked to describe him. This took place at approximately 30th and stark [sic] at about 1 am. Additionally her description was very detailed considering the horrible event. Black ski mask, two pairs of gloves, very yellow teeth.

1 whispered all commands, smelled of bourbon and cigarettes. He followed her in her apartment
2 while she was outside smoking a cig, raped her and forced her to shower in front of her [sic]. All
3 told he was in her apartment about an hour, and this very pretty, otherwise normal woman's life
4 is irrepprably [sic] changed. My advice: fight. It's only a knife, and any rapist is a coward who
5 will probably turn tail at any resistance. Also, I know you are all total firearms enthusiasts, but
6 the glock 26 is an absolutely reliable, tough, subcompact 10 round 9 mm which would look great
7 in your purse, for around 300 bones."

8
9 28.

10 Green's posting was preceded by a posting identifying him as a "paramedic."

11
12 29.

13 Green posted the information from his residence in Southeast Portland.

14
15 30.

16 All of the information posted by Green was obtained while he was doing acts that AMR
17 had hired him to do.

18
19 31.

20 As a result of reading Green's posting on MySpace, other people began doing "personal
21 recon [recognizance]" of the plaintiff's neighborhood to look for someone who matched his
22 posted description of the assailant.

23
24 32.

25 Green told Det. Susan Fachini of the Portland Police Bureau, who is investigating the
26 assault, that he knew the information he posted on MySpace concerning the plaintiff was
27 confidential but that he did not think it was a violation of confidentiality law because he didn't
28 use the plaintiff's name. Det. Fachini told Green that the information he posted on MySpace
29 about the suspect being armed and wearing two pairs of gloves; having green eyes and very
30 yellow teeth and whispering commands was information that she did not want released and

1 and whose release could compromise the investigation. Det. Fachini explained to Green that if a
2 suspect could be identified, these would be crucial pieces of evidence and would link the suspect
3 to the crime. Det. Fachini explained to Green that she could have prepared an affidavit for a
4 warrant to search a potential suspect's residence to look for the physical items. Det. Fachini
5 explained to Green that if the plaintiff's assailant saw Green's MySpace posting or was alerted
6 by the neighborhood reconnaissance, he could destroy the evidentiary items. Green told Det.
7 Fachini he was sorry and explained that he was only trying to "get the word out" so other women
8 would have an opportunity to protect themselves. Det. Fachini told Green the plaintiff had an
9 expectation of privacy while she was riding in the ambulance. Green again apologized and said,
10 "Great. I guess I'm going to get fired and sued."

11 33.

12 The Portland Police Bureau was relying on the assailant's retention of physical evidence
13 related to his assault on the plaintiff, including but not limited to the ski mask, latex and cloth
14 gloves, possible green contact lenses and pistol and the assailant's remaining or returning to the
15 area of the assault to solve this crime.

16 34.

17 As a result of Green's posting on MySpace, the Portland Police Bureau detectives
18 assigned to the plaintiff's case fear that the assailant may have destroyed physical evidence
19 related to his assault on the plaintiff and fled the area.

20 35.

21 As a result of Green's posting on MySpace and the subsequent neighborhood
22 reconnaissance, Det. Fachini told the plaintiff that the investigation has been severely
23 compromised and that her assailant may never be identified or prosecuted.

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36.

As a result of Green's posting on MySpace, the media contacted the plaintiff to question her about the assault.

37.

As a result of Green's posting on MySpace, the subsequent media contacts and the assault itself, the plaintiff was forced to move from her residence.

38.

AMR's stated "mission" is to "...make a difference by caring for people in need."

39.

AMR's stated values include "...treat[ing] our patients like members of our own families" and "...respect[ing] the dignity of each patient."

40.

AMR's stated values include "...be[ing] empowered to make a difference in the world."

41.

Green's act of posting the plaintiff's protected health information and other personal and confidential information on MySpace was committed substantially within the time and space limits authorized by his employment as a paramedic for AMR; was motivated, at least partially, by a purpose to serve his employer AMR; and was of a kind that he was hired to perform as a paramedic for AMR.

42.

The plaintiff did not consent to Green's posting of her protected health information and other personal and confidential information.

43.

As a result of the defendants' conduct, the plaintiff has suffered non-economic damages in the form of emotional distress, physical illness, and loss of sleep, memory and concentration.

1 She has suffered economic damages in the form of expenses incurred because she missed work,
2 had to obtain counseling and had to move.

3 **FIRST CLAIM: NEGLIGENCE**
4 **(Common Law Negligence, Breach of Duty)**

5 44.

6 The plaintiff incorporates paragraphs 1-43.

7 45.

8 The defendants had the duty to provide the plaintiffs with reasonable care.

9 46.

10 The defendants further had a duty to protect the plaintiff from the unauthorized disclosure
11 of her protected health information and other personal and confidential information and the
12 emotional distress resulting from such disclosure.

13 47.

14 Green breached this duty by posting the plaintiff's protected health information and other
15 personal and confidential information on the MySpace internet site.

16 48.

17 AMR breached this duty by:

18 1) negligently hiring Green:

19 2) negligently failing to train Green on the requirements of HIPAA and of maintaining
20 the confidentiality of a patient's protected health information and other personal and confidential
21 information:

22 2) negligently supervising Green.

23 49.

24 The defendants' negligence is the sole proximate cause of the plaintiff's non-economic
25 and economic injuries.

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50.

The plaintiff's injuries were foreseeable to the defendants.

SECOND CLAIM: BREACH OF CONFIDENTIALITY

(Breach of Duty)

51.

The plaintiff incorporates paragraphs 1-50.

52.

The defendants had a duty to protect the plaintiff from the unconsented, unprivileged disclosure, to a third party, of non-public information concerning the plaintiff that the defendants learned within their confidential relationship with the plaintiff.

53.

Green breached this duty by posting the plaintiff's nonpublic information on the MySpace internet site.

54.

AMR breached this duty by:

- 1) negligently hiring Green;
- 2) negligently failing to train Green on the necessity of not disclosing a patient's nonpublic information to a third party without the patient's consent;
- 2) negligently supervising Green.

WHEREFORE, the plaintiff seeks relief against the defendants as follows:

- a) On her claim of negligence (breach of duty), compensation for her non-economic damages in the amount of \$500,000;
- b) On her claim of negligence (breach of duty) compensation for her economic damages in an amount to be proven at trial;

1 c) On her claim of breach of confidentiality (breach of duty), compensation for her
2 non-economic damages in the amount of \$500,000;

3 d) On her claim for breach of confidentiality (breach of duty), compensation for her
4 economic damages in an amount to be proven at trial;

5 e) On all of her claims, compensation for her attorney's fees, filing fees and other
6 costs incurred as a result of this action, in amounts to be proven at trial;

7 f) Judgment in her favor; and

8 g) Any other compensation or relief that the court deems just.

9
10 The plaintiff demands a jury trial.

11
12 Dated April 26, 2007.

13 Respectfully submitted,

14 JANINE ROBBEN ATTORNEY LLC

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